

1 EMILY P. RICH, Bar No. 168735
2 TRACY L. MAINGUY, Bar No. 176928
3 CAITLIN GRAY, Bar No. 305118
4 WEINBERG, ROGER & ROSENFELD
5 A Professional Corporation
6 1001 Marina Village Parkway, Suite 200
7 Alameda, California 94501
8 Telephone (510) 337-1001
9 Fax (510) 337-1023
10 E-Mail: bankruptcycourtnotices@unioncounsel.net
11 erich@unioncounsel.net
12 tmainguy@unioncounsel.net
13 cgray@unioncounsel.net

14 Attorneys for Creditor Engineers and Scientists of California, Local
15 20, IFPTE

16 UNITED STATES BANKRUPTCY COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 (SAN FRANCISCO DIVISION)

19 In Re

20 PG&E CORPORATION,

21 and

22 PACIFIC GAS AND ELECTRIC COMPANY,

23 Debtors.

Case No. 19-30088 DM

CHAPTER 11

**ESC LOCAL 20'S SUR-REPLY TO
DEBTORS' MOTION TO PAY
PREPETITION EMPLOYEE
OBLIGATIONS AND CONTINUE
WAGES AND BENEFITS (DOC. 8)**

- 24 ☐ Affects PG&E Corporation
25 ☐ Affects Pacific Gas and Electric Company
26 ☒ Affects both Debtors

27 *All papers shall be filed in the Lead Case,
28 No. 19-30088 (DM)*

Date: February 27, 2019
Time: 9:30 a.m.
Location: U.S. Bankruptcy Court
Courtroom 17, 16th Floor
San Francisco, CA 94102

1 ESC Local 20 was informed today that Debtors are withdrawing their request in the
2 Employee Wage and Benefits Motion for authorization to pay any 2018 Short Term Incentive
3 Plan (STIP) awards.

4 However, the order on the Employee Wages and Benefits Motion must afford payment of
5 STIP awards that are required under the collective bargaining agreement between ESC Local 20
6 and PG&E.¹ Unlike STIP awards to executives and other employees who are not part of the
7 bargaining unit represented by the Union, the STIP awards owed to ESC-represented employees
8 are required by a collective bargaining agreement. Doc. 503-1 (Sperry Decl., Ex. A, CBA, pp.
9 viii-x) (requiring PG&E to pay eligible employees a STIP award). These ESC-represented
10 employees are not executives or officers; they are working people who gave up a portion of their
11 base pay in order to be eligible for these STIP payments. Doc. 503 (Sperry Decl.), ¶ 10. As
12 PG&E recognized, these STIP payments are an “integral component of the compensation” that
13 these employees rely upon on an annual basis. Doc. 8 (Employee Wages and Benefits Motion),
14 p. 14.

15 Because the STIP payments to ESC-represented employees are required by a collective
16 bargaining agreement, PG&E is not free to terminate or alter the requirement to make these
17 payments without first engaging with the Union as required by Section 1113 of the Bankruptcy
18 Code. 11 U.S.C. § 1113(f) (a debtor in possession shall not “unilaterally terminate or alter any
19 provisions of a collective bargaining agreement prior to compliance with the provisions of this
20 section”); *Adventure Resources, Inc. v. Holland*, 137 F.3d 786, 796 (4th Cir. 1998) (Section 1113
21 “plainly imposes a legal duty on the debtor to honor the terms of a collective bargaining
22 agreement ... until that agreement is properly rejected” under the procedures laid out in 11 USC
23 § 1113); *In re Manor Oak Skilled Nursing Facilities*, 201 B.R. 348, 350 (Bankr. W.D.N.Y. 1996)
24 (“[A]ll aspects of a collective bargaining agreement remain in effect and binding until rejection
25 occurs”); *see also* Doc. 501, § III.A.

26
27 ¹ As currently worded, the proposed final order on the Employee Wages and Benefits Motion
28 (Doc. 491-8) appears to authorize the Debtors to “pay all Prepetition Employee Obligations,
including, without limitation, all such obligations under or relating to the ... Employee Incentive
and Retention Programs.” Doc. 491-8, ¶ 1.

1 Accordingly, the STIP payments required by the collective bargaining agreement must be
2 paid, and the Debtors' motion should be denied to the extent it seeks to avoid these payments.
3 *See, e.g., In re Cutler Industries*, Case No. 91-21886T (Bankr. E.D. Pa. Oct. 10, 1991) (refusing
4 to approve cash collateral order because it fails to require debtor to pay pre-petition health benefit
5 contributions); *In re Arlene's Sportswear, Inc.*, 140 BR 25, 26-28 (Bankr. D. Mass. 1992)
6 (permitting debtor to make postpetition payments to holiday trust fund as required by CBA, as
7 required by § 1113).

8
9 Dated: February 25, 2019

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

10
11 By: /s/ Emily P. Rich
EMILY P. RICH

12
13 Attorneys for Creditor Engineers and Scientists of
California, Local 20, IFPTE

14 147061\1012587
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I am a citizen of the United States and an employee in the County of Alameda, State of
3 California. I am over the age of eighteen years and not a party to the within action; my business
4 address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501.

5 I hereby certify that on February 25, 2019, I electronically filed the forgoing ESC LOCAL
6 20'S SUR-REPLY TO DEBTORS' MOTION TO PAY PREPETITION EMPLOYEE
7 OBLIGATIONS AND CONTINUE WAGES AND BENEFITS with the U.S. Bankruptcy Court,
8 Northern District California, by using the Court's CM/ECF system.

9 Pursuant to controlling General Orders and LBR, the foregoing document will be served
10 by the court via NEF and hyperlink to the document. On February 25, 2019, I checked the
11 CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the
12 following persons are on the Electronic Mail Notice List to receive NEF transmission at the email
13 addresses stated below:

14 SEE ATTACHED SERVICE LIST

15 On February 25, 2019, I served the following persons and/or entities at the last known
16 addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy
17 thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed
18 as follows. Listing the judge here constitutes a declaration that mailing to the judge will be
19 completed no later than 24 hours after the document is filed.

20 SEE ATTACHED SERVICE LIST

21 I certify under penalty of perjury that the above is true and correct. Executed at Alameda,
22 California, on February 25, 2019.

23
24
25
26 /s/ Stephanie Mizuhara
Stephanie Mizuhara

SERVICE LIST

- Richard L. Antognini rlawyer@yahoo.com, hallonaegis@gmail.com
- Herb Baer hbaer@primeclerk.com, ecf@primeclerk.com
- Todd M. Bailey Todd.Bailey@ftb.ca.gov
- Kathryn E. Barrett keb@svlg.com, amt@svlg.com
- Ronald S. Beacher rbeacher@pryorcashman.com
- Hagop T. Bedoyan hbedoyan@kleinlaw.com, ecf@kleinlaw.com
- Peter J. Benvenutti pbenvenutti@kellerbenvenutti.com
- Robert Berens rberens@smtldlaw.com, sr@smtldlaw.com
- Heinz Binder heinz@bindermalter.com
- W. Steven Bryant , molly.batiste-debose@lockelord.com
- Christina Lin Chen christina.chen@morganlewis.com, christina.lin.chen@gmail.com
- Shawn M. Christianson schristianson@buchalter.com
- Robert N.H. Christmas rchristmas@nixonpeabody.com, nyc.managing.clerk@nixonpeabody.com
- Alicia Clough aclough@loeb.com
- Marc Cohen mscohen@loeb.com
- Keith J. Cunningham , rkelley@pierceatwood.com
- James D. Curran jcurran@wolkincurran.com, vsimmons@wolkincurran.com
- Jonathan R. Doolittle jdoolittle@reedsmith.com, bgonshorowski@reedsmith.com
- Jennifer V. Doran jdoran@hinckleyallen.com
- David V. Duperrault dvd@svlg.com, edn@svlg.com
- Kevin M. Eckhardt keckhardt@hunton.com, candonian@huntonak.com
- Joseph A. Eisenberg JAE1900@yahoo.com
- Sally J. Elkington sally@elkshep.com, ecf@elkshep.com
- G. Larry Engel larry@engeladvice.com
- Krista M. Enns kenns@beneschlaw.com
- Michael P. Esser michael.esser@kirkland.com, michael-esser-3293@ecf.pacerpro.com.
- Richard W. Esterkin richard.esterkin@morganlewis.com, sue.reimers@morganlewis.com
- Joseph Kyle Feist jfeistesq@gmail.com, info@norcallawgroup.net
- James J. Ficenec James.Ficenec@ndlf.com, caroline.pfahl@ndlf.com
- John D. Fiero jfiero@pszjlaw.com, ocarpio@pszjlaw.com
- Kimberly S. Fineman kfineman@nutihart.com, nwhite@nutihart.com
- Stephen D. Finestone sfinestone@fhllawllp.com
- Jonathan Forstot , john.murphy@troutman.com
- Gregg M. Galardi gregg.galardi@ropesgray.com
- Richard L. Gallagher richard.gallagher@ropesgray.com
- Barry S. Glaser bglaser@swesq.com
- Gabriel I. Glazer gglazer@pszjlaw.com
- Gabrielle Glemann gabrielle.glemann@stoel.com, rene.alvin@stoel.com
- Eric D. Goldberg eric.goldberg@dlapiper.com, eric-goldberg-1103@ecf.pacerpro.com
- Richard H. Golubow rgolubow@wcghlaw.com, jmartinez@WCGHLaw.com
- Mark A. Gorton mgorton@boutinjones.com, cdomingo@boutininc.com
- Mark A. Gorton mgorton@boutininc.com, cdomingo@boutininc.com
- Debra I. Grassgreen dgrassgreen@pszjlaw.com, hphan@pszjlaw.com

- 1 • Oren Buchanan Haker oren.haker@stoel.com, rene.alvin@stoel.com
- 2 • Robert G. Harris rob@bindermalter.com
- 3 • Christopher H. Hart chart@nutihart.com, nwhite@nutihart.com
- 4 • Bryan L. Hawkins bryan.hawkins@stoel.com, Sharon.witkin@stoel.com
- 5 • Jan M Hayden jhayden@bakerdonelson.com, gmitchehl@bakerdonelson.com
- 6 • Jennifer C. Hayes jhayes@fhlawllp.com
- 7 • Stephen E. Hessler, P.C. , jozette.chong@kirkland.com
- 8 • Michael R. Hogue hoguem@gtlaw.com, frazierl@gtlaw.com
- 9 • David Holtzman david.holtzman@hklaw.com
- 10 • Marsha Houston mhouston@reedsmith.com, hvalencia@reedsmith.com
- 11 • Mark V. Isola mvi@sbj-law.com
- 12 • J. Eric Ivester , Andrea.Bates@skadden.com
- 13 • Ivan C. Jen ivan@icjenlaw.com
- 14 • Gregory K. Jones GJones@dykema.com, cacossano@dykema.com
- 15 • Roberto J. Kampfner rkampfner@whitecase.com, mco@whitecase.com
- 16 • Robert B. Kaplan rbk@jmbm.com
- 17 • Tobias S. Keller tkeller@kellerbenvenutti.com, pbenvenutti@kellerbenvenutti.com
- 18 • Lynette C. Kelly lynette.c.kelly@usdoj.gov, ustpregion17.0a.ecf@usdoj.gov
- 19 • Gerald P. Kennedy gerald.kennedy@procopio.com, laj@procopio.com
- 20 • Samuel M. Kidder skidder@ktbslaw.com
- 21 • Marc Kieselstein , carrie.oppenheim@kirkland.com
- 22 • Jane Kim jkim@kellerbenvenutti.com
- 23 • Thomas F. Koegel tkoegel@crowell.com
- 24 • Andy S. Kong kong.andy@arentfox.com, Yvonne.Li@arentfox.com
- 25 • Alan W. Kornberg , akornberg@paulweiss.com
- 26 • Jeffrey C. Krause jkrause@gibsondunn.com, psantos@gibsondunn.com
- 27 • Michael Thomas Krueger michael.krueger@ndlf.com, Havilyn.lee@ndlf.com
- 28 • Richard A. Lapping rich@trodelalapping.com
- Matthew A. Lesnick matt@lesnickprince.com, jmack@lesnickprince.com
- David B. Levant david.levant@stoel.com, rene.alvin@stoel.com
- Andrew H. Levin alevin@wcghlaw.com, vcorbin@wcghlaw.com
- John William Lucas jlucas@pszjlaw.com, ocarpio@pszjlaw.com
- Jane Luciano jane-luciano@comcast.net
- Kerri Lyman klyman@irell.com, lgauthier@irell.com
- John H. MacConaghy macclaw@macbarlaw.com, smansour@macbarlaw.com; kmuller@macbarlaw.com
- Iain A. Macdonald iain@macfern.com, ecf@macfern.com
- Michael W. Malter michael@bindermalter.com
- David P. Matthews jrhoades@thematthewslawfirm.com, aharrison@thematthewslawfirm.com
- Hugh M. McDonald , john.murphy@troutman.com
- C. Luckey McDowell luckey.mcdowell@bakerbotts.com
- Frank A. Merola lalacalendar@stroock.com, mmagzamen@stroock.com
- Matthew D. Metzger belvederelegalecf@gmail.com
- M. David Minnick dminnick@pillsburylaw.com, docket@pillsburylaw.com
- Thomas C. Mitchell tcmtitchell@orrick.com, Dcmanagingattorneysoffice@ecf.courtdrive.com
- John A. Moe john.moe@dentons.com, glenda.spratt@dentons.com

- 1 • David W. Moon lalacalendar@stroock.com, mmagzamen@stroock.com
- 2 • Courtney L. Morgan morgan.courtney@pbgc.gov
- 3 • Joshua D. Morse Joshua.Morse@dlapiper.com, joshua-morse-0092@ecf.pacerpro.com
- 4 • Thomas G. Mouzes tmouzes@boutinjones.com, cdomingo@boutininc.com
- 5 • Peter S. Munoz pmunoz@reedsmith.com, gsandoval@reedsmith.com
- 6 • Michael S. Myers myersms@ballardspahr.com, hartt@ballardspahr.com
- 7 • David L. Neale dln@lnbrb.com
- 8 • David L. Neale dln@lnbyb.com
- 9 • David Neier dneier@winston.com
- 10 • Melissa T. Ngo ngo.melissa@pbgc.gov, efile@pbgc.gov
- 11 • Gregory C. Nuti gnuti@nutihart.com, nwhite@nutihart.com
- 12 • Abigail O'Brient aobrient@mintz.com, docketing@mintz.com
- 13 • Office of the U.S. Trustee / SF USTPRegion17.SF.ECF@usdoj.gov
- 14 • Aram Ordubegian Ordubegian.Aram@ArentFox.com
- 15 • Gabriel Ozel Gabriel.Ozel@troutman.com, tsinger@houser-law.com
- 16 • Amy S. Park amy.park@skadden.com, alissa.turnipseed@skadden.com
- 17 • Donna Taylor Parkinson donna@parkinsonphinney.com
- 18 • Paul J. Pascuzzi ppascuzzi@ffwplaw.com, JNiemann@ffwplaw.com
- 19 • Valerie Bantner Peo vbantnerpeo@buchalter.com
- 20 • Danielle A. Pham danielle.pham@usdoj.gov
- 21 • Thomas R. Phinney tom@parkinsonphinney.com
- 22 • R. Alexander Pilmer alexander.pilmer@kirkland.com, keith.catuara@kirkland.com
- 23 • M. Ryan Pinkston rpinkston@seyfarth.com, jmcdermott@seyfarth.com
- 24 • Estela O. Pino epino@epinolaw.com, staff@epinolaw.com
- 25 • Mark D. Poniatowski ponlaw@ponlaw.com
- 26 • Christopher E. Prince cprince@lesnickprince.com
- 27 • Douglas B. Provencher dbp@provlaw.com
- 28 • Lary Alan Rappaport lrappaport@proskauer.com, PHays@proskauer.com
- Justin E. Rawlins jrawlins@winston.com, justin-rawlins-0284@ecf.pacerpro.com
- Emily P. Rich erich@unioncounsel.net, bankruptcycourtnotices@unioncounsel.net
- Christopher O. Rivas crivas@reedsmith.com, chris-rivas-8658@ecf.pacerpro.com
- Lacey Rochester lrochester@bakerdonelson.com, gmittchell@bakerdonelson.com
- Gregory A. Rougeau grougeau@brlawssf.com
- Nanette D. Sanders nanette@ringstadlaw.com, becky@ringstadlaw.com
- Sunny S. Sarkis , dawn.forgeur@stoel.com
- David B. Shemano dshemano@pwkllp.com
- James A. Shepherd jim@elkshep.com, ecf@elkshep.com
- Wayne A. Silver w_silver@sbcglobal.net, ws@waynesilverlaw.com
- Dania Slim dania.slim@pillsburylaw.com, melinda.hernandez@pillsburylaw.com
- Alan D. Smith adsmith@perkinscoie.com, al-smith-9439@ecf.pacerpro.com
- Jan D. Sokol jdsokol@lawssl.com, dwright@lawssl.com
- Bennett L. Spiegel blspiegel@jonesday.com
- Michael St. James ecf@stjames-law.com
- David M. Stern dstern@ktbslaw.com
- Meagan S. Tom Meagan.tom@lockelord.com, autodocket@lockelord.com
- Edward Tredinnick etredinnick@grmslaw.com
- Victor A. Vilaplana vavilaplana@foley.com, rhurst@foley.com
- Marta Villacorta marta.villacorta@usdoj.gov

- John A. Vos InvalidEMailECFonly@gmail.com, PrivateECFNotice@gmail.com
- Riley C. Walter ecf@W2LG.com
- Philip S. Warden philip.warden@pillsburylaw.com, candy.kleiner@pillsburylaw.com
- Genevieve G. Weiner gweiner@gibsondunn.com
- Joseph M. Welch jwelch@buchalter.com, dcyrankowski@buchalter.com
- Eric R. Wilson kdwbankruptcydepartment@kelleydrye.com, ewilson@kelleydrye.com
- Kimberly S. Winick kwinick@clarktrev.com, knielsen@clarktrev.com
- Rebecca J. Winthrop rebecca.winthrop@nortonrosefulbright.com, evette.rodriguez@nortonrosefulbright.com
- David Wirt david.wirt@hklaw.com, denise.harmon@hklaw.com
- Ryan A. Witthans rwitthans@fhllawllp.com, rwitthans@fhllawllp.com
- Christopher Kwan Shek Wong christopher.wong@arentfox.com
- Kirsten A. Worley kw@wlawcorp.com, admin@wlawcorp.com
- Andrew Yaphe andrew.yaphe@davispolk.com, lit.paralegals.mp@davispolk.com

VIA U.S. MAIL

Max Africk Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153	Kevin Bostel Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153
Matthew Goren Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153	Andriana Georgallas Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153
David A. Herman Cravath, Swaine & Moore LLP 85 Eighth Avenue New York, NY 10019	Stuart J. Goldring Weil, Gotshal & Manges LLP 767 Fifth Ave. New York, NY 10153
Stephen Karotkin Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153	Kevin Kramer Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153
John Nolan Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153	Jessica Liou Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153
Kevin J. Orsini Cravath, Swaine & Moore LLP 85 Eighth Avenue New York, NY 10019	Omid H. Nasab Cravath, Swaine & Moore LLP 85 Eighth Avenue New York, NY 10019
Ray C. Schrock Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153	Theodore Tsekerides Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153
Paul H. Zumbro Cravath, Swaine & Moore LLP 85 Eighth Avenue New York, NY 10019	